

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

KATRINA DANIELLE MATEEN

PLAINTIFF

VS

CIVIL ACTION NO.: 1:23-cv-00306-TBM-RPM

CITY OF GULFPORT, No. 1., is being sued in their (sic) official capacity
As the governing body for the City of Gulfport, Mississippi, located at
2309 15th Street, in Gulfport, Mississippi 39501 for protecting then
Officer/but now Sergeant Kenneth Nassar who shot and killed Jaheim
McMillan, on October 6, 2022, at the Family Dollar Store, located at
1016 Pass Road, in Gulfport, Mississippi 39501

AND

KENNETH NASSAR, No. 2, is being sued in his individual capacity
As Officer/but now Sergeant and was at all time relevant to these
Proceedings was employed by the Gulfport Police Department,
Located at 2220 15th Street, in Gulfport, Mississippi, 39501, while
Working under the color of state law at the time the Defendant shot
And killed Jaheim McMillan, on October 6, 2022, at the Family Dollar
Store, located at 1016 Pass Road, in Gulfport, Mississippi 39501

DEFENDANTS

**MOTION OF OFFICER KENNETH NASSAR, SPECIALLY APPEARING,
TO QUASH AND DISMISS PURSUANT TO FED. R. CIV. P. 4 AND/OR 12**

COMES NOW Officer Kenneth Nassar, identified as a Defendant in the above cause, by
and through undersigned counsel and by way of special appearance only, without waiving any
objection, response, immunity, or defense he may have to the “Complaint” [Doc. 1], be they
affirmative or otherwise, and files this his “Motion to Quash and Dismiss Pursuant to FED. R.
Civ. P. 4 and/or 12,” and as grounds would show as follows, to-wit:¹

¹The instant Motion is pursued without waiving or limiting any defense, objection, right, or immunity available to or conferred upon the movant under the Federal Rules of Civil Procedure, including, without limitation, Rules 4, 8, 9, 12, 13, 14, 17, and 19, as well as any set forth in or afforded as a result of any local, state, and/or federal statutory or decisional law or constitution, including, without limitation, qualified immunity. The movant also herein adopts and incorporates all arguments, contentions, and authorities asserted in his accompanying Memorandum of Authorities in support of this Motion and in any rebuttal or memoranda submitted in support thereof.

I.

Katrina Mateen (“Plaintiff”) filed her Complaint with the Circuit Court of Harrison County, Mississippi on October 4, 2023. See Exhibit “A” (attached hereto). The City of Gulfport, Mississippi, another named Defendant, subsequently caused the case to be removed to the instant forum on November 3, 2023.

II.

On February 27, 2024, Plaintiff had a copy of this pleading (the “Complaint” [Doc. 1]) delivered to Officer Nassar. This February 27 delivery (at that time) was the only service attempt on Officer Nassar in this proceeding. As it was untimely and improper, on March 19, 2024, Officer Nassar filed a “Motion to Dismiss Pursuant to FED. R. CIV. P. 4 And/Or 12” [Doc. 20], along with a supporting “Memorandum of Authorities” [Doc. 21]. This Motion has been fully briefed and is pending before the Court.

III.

On April 12, 2024, Plaintiff had copies of the documents attached hereto as Exhibit “A” delivered to Officer Nassar. This Exhibit appears to contain a document entitled “Summons” that was not issued by the Clerk of this Court but appears to have been purportedly signed by someone with the Office of the Circuit Clerk of Harrison County, Mississippi as well as a copy of the original Complaint. This attempt at service on April 12, 2024, was insufficient on several different grounds, to include the fact that process and service were both defective. Consequently, it must be quashed and Officer Nassar dismissed pursuant to FED. R. CIV. P. 4 and 12.

WHEREFORE, Officer Kenneth Nassar, specially appearing, who reserves all objections, responses, immunities, and defenses, affirmative or otherwise, that he may have to the “Complaint” [Doc. 1], respectfully requests that this Honorable Court issue an Order fully

granting his “Motion to Quash and Dismiss Pursuant to FED. R. CIV. P. 4 And/Or 12,” quashing the defective process and service attempt referenced herein, and dismissing this cause against him as well as awarding the movant herein with all costs incurred with pursuing this Motion, including, but not limited to, attorneys’ fees and expenses, as well as granting all other relief, equitable or otherwise, to which he may be entitled.

RESPECTFULLY SUBMITTED, this the 3rd day of May, 2024.

OFFICER KENNETH NASSAR,
SPECIALLY APPEARING

By: s/ Jeffrey S. Bruni, Esq.
JEFFREY S. BRUNI, ESQ.
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CERTIFICATE OF SERVICE

I, Jeffrey S. Bruni, Esq., Attorney for the City of Gulfport, Mississippi, do hereby certify that I have on this date electronically filed the above and foregoing document with attached exhibit with the Clerk of the Court using the ECF/MEC system, which should send notification of such filing to the Plaintiff, Katrina Mateen and to all counsel of record who have made an appearance in this matter, and that the undersigned has on this date had sent the above and foregoing document with attached exhibit to the Plaintiff, Katrina Mateen via First Class United States Mail, postage prepaid, to the address of 12060 E. George Street, Gulfport, Mississippi 39503.

This the 3rd day of May, 2024.

s/ Jeffrey S. Bruni

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